IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SIXTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO: 22419 of 2004

Between:

M/s.Vikas Educational So., rep by President MrA.R.Chandra Babu
Plot No203,3-6-704, Classic Veerula Apartments,
St.No11 Himayathnagar, Hyderabad.

... PETITIONER

AND

Asst.Provident Fund Comm Enforcement, A.P.,
Employees Provident Fund Org, Barkatpura,
Hyderabad.

...RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate order writ or direction more particularly one in the nature of Writ of Certiorari, to call for the records pertaining to the impugned order dt 8-11-2004 bearing No.AP/29867/Enf.Cir.1-8/Z-XXVII/2004/969 on the file of the respondent and to quash the same as illegal, arbitrary, unconstitutional and against to the principles of natural justice.

Counsel for the Petitioner: MR.MOHD.YASEEN ALI

Counsel for the Respondent: Mr. R.N. Reddy

The Court, at the admission stage, made the following:

ORDER:

This writ petition is filed challenging the order dated 08-11-2004 passed by the respondent assessing the Provident Fund payable by the petitioner under Section 7-A of the Employee's Provident Funds and Miscellaneous Provisions Act, 1952, (for short 'the Act').

2. As per the averments made in the affidavit filed in support of the writ petition, the petitioner company is covered under the Provident Fund Scheme. Summons dated 29-08-2003 was issued to the petitioner alleging that the petitioner institution failed to comply with the provisions of the Act and schemes framed thereunder inasmuch as the contributions and administrative charges have not been remitted for the period from 11/2001 onwards and an inquiry under Section 7-A of the Act for determination of the dues. It is submitted that on 16-09-2003 the petitioner made his appearance for enquiry and the petitioner was directed to produce the records fixing the date 07-10-2003 and accordingly the relevant records were produced. Thereafter, the impugned order dated 08-11-2004 was passed under Section 7-A of the Act levying an amount of Rs.1,96,601/-. Questioning the same on various grounds, the present writ petition is filed.

3. Heard the learned counsel for the petitioner and learned Standing Counsel for the respondent.

4. Though several contentions are raised questioning the impugned order, learned Standing Counsel for the respondent Mr. R.N. Reddy submits that against the impugned order an appeal lies under Section 7(I) of the Act and that without availing the said remedy the petitioner has approached this Court in a posthaste manner.

5. Since alternative efficacious remedy is provided under the Act, the

petitioner is at liberty to file an appeal under Section 7(I) of the Act, within a period of four weeks from today. Pending appeal, there shall be stay of all further proceedings pursuant to the order dated 29-08-2003, on condition of petitioner depositing 50% of the amount demanded vide proceedings dated 08-11-2004, within six weeks from today. No coercive steps shall be taken pending appeal.

Subject to the above observations, the writ petition is disposed at the stage of admission.

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N.V. RAMANA, J

December 6, 2004

MRR/KSR

To:

1. Asst.Provident Fund Commissioner, Enforcement, A.P., Employees Provident Fund Organisation, Barkatpura, Hyderabad.

2. Two C.D. Copies.